

FILED

U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

IN THE UNITED STATES DISTRICT COURT
FOR THE _____ DISTRICT OF TEXAS

DIVISION

MAR 09 2015

DAVID J. MALAND, CLERK
BY DEPUTY

Andrew Whitaker
Plaintiff's name and ID Number

McCulloch County Jail
Place of Confinement

CASE NO. 9:15cv35

(Clerk will assign the number)

v.

Austin McDonald of Sheriff Office
Defendant's name and address

Derrick Stinson of Sheriff Office
Defendant's name and address

SGT. R. Wilbiss of Sheriff Office
Defendant's name and address
(DO NOT USE "ET AL.")

Schneider Hawthorn

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE. ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.**
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the Clerk of the United States Court for the appropriate District of Texas in the Division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. The list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate District Court, the Division and an address list of the Divisional Clerks.

1. **I**n order for your complaint to be filed, it must be accompanied by the filing fee of \$400.00.
2. **I**f you do not have the necessary funds to pay the filing fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis* (IFP), setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six (6) month history of your Inmate Trust Account. You can acquire the application to proceed IFP and appropriate Inmate Account Certificate from the law library at your prison unit.
3. **28 U.S.C. 1915**, as amended by the Prison Litigation Reform Act of 1995 (PLRA), provides, "...if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." Thus, the Court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the Court will apply 28 U.S.C. 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your Inmate Account, until the entire \$400 filing fee has been paid.
4. **I**f you intend to seek *in forma pauperis* status, then do not send your complaint without an Application to Proceed IFP, and the Certificate of Inmate Trust Account. Complete all the essential paperwork before submitting it to the Court.

5. The complaint can not exceed 20 pages which includes all attachments.

CHANGE OF ADDRESS

It is your responsibility to inform the Court of any change of address and its effective date. Such notice should be marked "**NOTICE TO THE COURT OF CHANGE OF ADDRESS**" and shall not include any motion (s) for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS:

- A. Have you filed *any* other lawsuits in state or federal court relating to your imprisonment? YES NO
- B. If your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)

1. Approximate date of filing lawsuit: _____

2. Parties to previous lawsuit:

Plaintiff(s) _____

Defendant(s) _____

3. Court: (If federal, name the district; if state, name the county.) _____

4. Docket Number: _____

5. Name of judge to whom case was assigned: _____

7. Approximate date of disposition: _____

II. PLACE OF PRESENT CONFINEMENT: Nacogdoches County Jail

III. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: Andrew Whitaker
2304 Douglass RD. Nacogdoches, TX 75964

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: Officer Mc Donald known as Austin Mc Donald of Nacogdoches Sheriff's office

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.
Violated my 8th Amendment right, 14th, 5th

Defendant #2: Officer Derrick STINSON of Nacogdoches Sheriff's office

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.
Violated my 8th Amendment right, 14th, 5th

Defendant #3: Officer SGT. Riedisill of Nacogdoches Sheriff's office

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.
Violated my 8th Amendment right, 14th, 5th

Defendant #4: Officer L. Patterson of Nacogdoches Sheriff's office

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.
Violated my 8th Amendment right 14th

Defendant #5: Attorney at Law John Boundy

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.
14th Amendment, 6th Amendment 5 Amendment

IV.

STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember that the complaint must be stated briefly and concisely. **IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.**

June 5, 2014 I was charged with unauthorized use of A vehicle and fleeing in A vehicle. I went to trial and was convicted due to my Attorney lack of council or his lack of interest. The lawyer never told the truth but fibicated information pertaining to my case, and forced me to trial instead of giving me help for my addiction. The day of June 5 2014, I ran from police on foot into woods and these officers tackled me but was useless because I was under the influence at the time and as I continued to run officer Austin Mc. Donald, Derrick Stinson, SGT. Rudisill and L. Patterson pushed me to the ground and applied pressure to my head forcing the ground to smother me and as I attempted to position my head they continued to smother me and as I screamed I can't breathe, which is on audio, they continued and refuse my medical attention, nurse did also.

RELIEF: State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

A redo of trial or what I've been asking from the beginning which is counciling

V.

GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases:

Muthu

B. List all TDCJ-ID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you, if known to you.

1647295 / 1117385

VI.

SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? YES NO

B. If your answer is "yes", give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): _____

2. Case Number: _____

3. Approximate date sanctions were imposed: _____

4. Have the sanctions been lifted or otherwise satisfied?

 YES NO

D. If your answer is "yes", give the following information for every lawsuit in which warning was imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed warning (if federal, give the district and division): _____
2. Case Number: _____
3. Approximate date warnings were imposed: _____

Executed on: _____
DATE

Andrew Whitaker
Andrew Whitaker
(Signature of plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand if I am released or transferred, it is my responsibility to keep the Court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand that I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions in a Court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire \$350 filing fee and costs assessed by the Court, which shall be deducted in accordance with the law from my inmate account by my custodian until the filing fee is paid.

Signed this _____ day of _____, 20 _____.
(Day) (month) (year)

Andrew Whitaker
Andrew Whitaker
(Signature of plaintiff)

WARNING: The Plaintiff is hereby advised any false or deliberately misleading information provided in response to the following questions will result in the imposition of sanctions. The sanctions the Court may impose include, but are not limited to monetary sanctions and/or the dismissal of this action with prejudice.